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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ANWAH, OLISA

ART UNIT PAPER NUMBER

2645

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,223

Applicant(s)

SWINGLE ET AL.

Examiner

Olisa Anwah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 18-23 and 26-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 24, 25 and 29-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in-
 - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
 - (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1-4 and 24 are rejected under 35 U.S.C. § 102(e) as being anticipated by Tobias et al, U.S. Patent No. 6,732,151 (hereinafter Tobias).

Regarding claim 1, Tobias discloses a method of operating a communications device, the method comprising:

- accessing a voice message system;
- retrieving, over a public telephone network, a voice message from the voice message system;
- generating from the retrieved voice message a digital audio file representing said message; and

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sending, using at least one Internet Protocol (IP) packet, the digital audio file to a service subscriber (column 3).

Regarding claim 2, see column 3.

Regarding claim 3, see column 3.

Regarding claim 4, see column 3.

Regarding claim 24, Tobias discloses a communication device, comprising:

means for accessing a voice message system;

means for retrieving a voice message from the voice message system over a public telephone network;

means for generating from the retrieved voice message an E-mail message including the retrieved voice message as an attached audio file; and

means for sending the E-mail message to a service subscriber.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 29-33 are rejected under 35 U.S.C § 103(a) as being unpatentable over Tobias in view of Thompson et al, U.S. Patent No. 4,935,954 (hereinafter Thompson).

With respect to claim 29, Tobias teaches the claimed accessing, retrieving and forwarding limitations as explained in the rejection of claim 1. However Tobias does not explicitly teach a plurality of voice messaging systems. Regardless, Thompson discloses this limitation (see Figure 1). As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tobias with the multiple systems of Thompson. This modification would have improved the flexibility of Tobias by allowing numerous message storage systems to be available to a business communication customer as suggested by Thompson.

Regarding claim 30, see column 3 of Tobias.

Regarding claim 31, see column 3 of Tobias.

Regarding claim 32, see Figure 1 of Thompson.

Regarding claim 33, see column 3 of Tobias.

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5. Claims 34 and 35 are rejected under 35 U.S.C § 103(a) as being unpatentable over Tobias combined with Thompson in further view of Dorfman et al, U.S. Patent No. 6,563,912 (hereinafter Dorfman).

Regarding claim 34, the combination of Tobias and Thompson does not explicitly teach the claimed establishing and sending steps. Nonetheless, Dorfman shows these procedures (column 2). Hence it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Tobias and Thompson with the channel of Dorfman. This modification would have modernized the system by allowing the voice server to operate as an SMTP server as suggested by Dorfman.

Regarding claim 35, see column 3 of Tobias.

6. Claims 5, 14-16 and 25 are rejected under 35 U.S.C § 103(a) as being unpatentable over Tobias combined with Tverskoy et al, U.S. Patent Application Publication No. 2001/0043678 (hereinafter Tverskoy) in further view of Muller, U.S. Patent No. 6,295,341 (hereinafter Muller).

Regarding claim 5, Tobias does not teach the claimed receiving and deleting steps. However Tverskoy shows the

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receiving limitation (paragraph 0033). So, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tobias with the receiving step of Tverskoy. This modification would have improved the cumulative features of Tobias by allowing the subscriber to save long distance charges as suggested by Tverskoy.

With further respect to claim 5, the combination of Tobias and Tverskoy does not show the deleting step. Yet, Muller reveals this procedure (column 6). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Tobias and Tverskoy with the deleting mechanism of Muller. This modification would have improved system efficiency by providing higher reliability as suggested by Muller.

Regarding claim 14, Tobias discloses a method of controlling a voice message system (column 3). Tobias does not indicate the claimed receiving, accessing and controlling methods. However Tverskoy shows the receiving method (paragraph 0033). So, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tobias with the receiving method of Tverskoy. This modification would have improved the cumulative features of Tobias by allowing the

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subscriber to save long distance charges as suggested by Tverskoy.

With further respect to claim 14, the combination of Tobias and Tverskoy does not show the claimed accessing and controlling methods. All the same, Muller reveals these limitations (column 6). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Tobias and Tverskoy with the accessing and controlling features of Muller. This modification would have improved system efficiency by providing higher reliability as suggested by Muller.

Regarding claim 15, see column 6 of Muller.

Regarding claim 16, see paragraph 0033 of Tverskoy.

Regarding claim 25, Tobias discloses a device for controlling a voice message system (column 3). Tobias does not indicate the claimed receiving, accessing and controlling means. Tverskoy shows the receiving means (paragraph 0033). So, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tobias with the receiving step of Tverskoy. This modification would have

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improved the cumulative features of Tobias by allowing the subscriber to save long distance charges as suggested by Tverskoy.

With further respect to claim 25, the combination of Tobias and Tverskoy does not show the claimed accessing and controlling means. All the same, Muller reveals these mechanisms (column 6). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Tobias and Tverskoy with the accessing and controlling features of Muller. This modification would have improved system efficiency by providing higher reliability as suggested by Muller.

7. Claim 6 is rejected under 35 U.S.C § 103(a) as being unpatentable over Tobias combined with Muller in further view of Tverskoy.

Regarding claim 6, Tobias discloses a method of operating a communications device, the method comprising:

- accessing a voice message system;
- retrieving, over a public telephone network, a voice message from the voice message system;
- generating a digital audio file representing said message;

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sending, using at least one Internet Protocol (IP) packet, the digital audio file representing said message to a service subscriber (column 3).

Tobias fails to show:

storing the retrieved voice message in a memory device from which the service subscriber can retrieve messages by telephone;

deleting the retrieved message from said voice message system; and

deleting the retrieved message from the memory device.

Nonetheless, Muller discloses these limitations (see columns 3, 6 and 8). Hence it would have been obvious to one of ordinary skill in the art to modify Tobias with the storing and deleting steps of Muller. This modification would have improved the convenience of Tobias by enabling a user to screen calls as suggested by Muller.

The combination of Tobias and Muller doesn't teach receiving a reply to said sending the digital audio file wherein the deleting limitations occur in response to receiving the reply. But Tverskoy describes this limitation (paragraph 0033). So, it would have been obvious to one of ordinary skill in the

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art at the time the invention was made to modify the combination of Tobias and Muller with the e-mail message of Tverskoy. This modification would have improved the system efficiency by allowing the subscriber to save long distance charges as suggested by Tverskoy.

8. Claim 7 is rejected under 35 U.S.C § 103(a) as being unpatentable over Tobias combined with Dorfman in further view of Matthews et al, U.S. Patent No. 4,757,525 (hereinafter Matthews).

Regarding claim 7, Tobias does not teach:

receiving an E-mail message including an identifier and an audio file; and

initiating a communication using the identifier.

However Dorfman clearly shows these features (see Figure 9). Thus, it would have been apparent to an individual of plain ability in the field to alter Tobias with the receiving and initiating attributes of Dorfman. This modification would have improved the user friendliness of Dorfman by enabling a subscriber to reply to voice messages as suggested by Dorfman.

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With further respect to claim 7, the combination of Tobias and Dorfman does not explicitly teach the identifier is a telephone number and the communication is a telephone call. On the other hand, Matthews teaches these limitations (see column 36). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Tobias and Dorfman with the telephone number and telephone call of Matthews. This modification would have improved the system's flexibility by enabling voice messages to be played to their recipients via a telephone as suggested by Matthews and Dorfman.

9. Claims 9-13 are rejected under 35 U.S.C § 103(a) as being unpatentable over Tobias in view of Wolf, U.S. Patent No. 5,737,393 (hereinafter Wolf).

Regarding claim 9, Tobias fails to disclose the claimed storing and determining methods. Yet, Wolf discloses these procedures (see abstract). For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tobias with the prompts of Wolf. This modification would have improved the user friendliness of Tobias by providing an interactive voice mail system that is

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simple and straightforward enough for the average user to install, customize and operate as suggested by Wolf (column 1).

Regarding claim 10, see abstract and columns 1-2 of Wolf.

Regarding claim 11, see abstract and columns 1-2 of Wolf.

Regarding claim 12, see abstract and columns 1-2 of Wolf.

Regarding claim 13, see abstract and columns 1-2 of Wolf.

10. Claim 17 is rejected under 35 U.S.C § 103(a) as being unpatentable over Tobias combined with Tverskoy and Nielsen, U.S. Patent No. 6,108,688 (hereinafter Nielsen) in further view of Muller.

Regarding claim 17, Tobias teaches a method of controlling a voice message system. Tobias does not teach the claimed receiving step. However Tverskoy shows this limitation (paragraph 0033). So, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tobias with the receiving step of Tverskoy. This modification would have improved the cumulative features of Tobias by allowing the subscriber to save long distance charges as suggested by Tverskoy.

Further regarding claim 17, the combination of Tobias shows the claimed audio file (see column 3 of Tobias). Tobias combined

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with Tverskoy doesn't show the claimed operating procedure. Yet Nielsen reveals this limitation (see column 1). Consequently, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Tobias-Tverskoy combo with generating step of Nielsen. This modification would have improved the system's cumulative features by employing conventional e-mail features as suggested by Nielsen.

With further respect to claim 17, neither Tobias, Tverskoy nor Nielsen indicate the claimed accessing and causing steps. Nevertheless, Muller reveals these limitations (see column 6). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Tobias, Tverskoy and Nielsen with the deleting mechanism of Muller. This modification would have improved system efficiency by providing higher reliability as suggested by Muller.

11. Claim 8 is rejected under 35 U.S.C § 103(a) as being unpatentable over Tobias combined with Dorfman and Matthews, in further view of Goldberg et al, U.S. Patent No. 6,226,360 (hereinafter Goldberg).

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Regarding claim 8, the combination of Tobias, Dorfman and Matthews teaches the claimed accessing, retrieving, generating, sending and initiating procedures as explained in the rejection of claim 7. However the Tobias-Dorfman-Matthews grouping fails to teach the claimed monitoring and playing steps. Regardless, Goldberg discloses this limitation (see column 6). As a result, it would have been apparent to an individual of plain ability in the field to further modify the grouping of Tobias, Dorfman and Matthews with the monitoring and playing instruments of Goldberg. This modification would have improved system efficiency by optimizing the probability that a pre-recorded message is effectively delivered to an intended recipient as suggested by Goldberg.

Response to Arguments

12. Applicant's arguments have been considered but are deemed to be moot in view of the new grounds of rejection.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 703-305-4814. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

O.A.

Olisa Anwah
Patent Examiner
June 13, 2005



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